



ROYAL FLYING DOCTOR SERVICE

OF AUSTRALIA

NATIONAL OFFICE

A.C.N. 004 213 067 A.B.N. 74 438 059 643

29th August 2008

The Committee Secretary
Senate Economics Committee
Department of the Senate
PO Box 6100
Parliament House
CANBERRA ACT 2600

NATIONAL PATRONS:
*His Excellency
Major General Michael
Jeffery AC CVO MC (Retd)
Governor-General of the
Commonwealth of
Australia and Her
Excellency
Mrs Marlena Jeffery*

Dear Sirs

Inquiry into the Disclosure regimes for Charities and not-for-profit organisations

Thank you for the opportunity to make a submission to the Inquiry.

We understand the focus of the Inquiry is principally on the issues of accountability and transparency of use of public and government funding, and models of regulation for the not-for-profit sector.

Like many other large national not-for-profit organisations, the Royal Flying Doctor Service is an organisation subject to regulation under the Corporations Act. We also have significant accountability and transparency obligations in our service contracts with the Commonwealth, State and Territory governments and accordingly are accustomed to a high level of regulation and reporting. We therefore have no particular concern about greater uniformity of regulation for the not-for-profit sector, provided that it is done efficiently and having regard to existing systems of regulation such as the Corporations Act.

We would, however, like to make some comments about the issue of competitive neutrality in the not-for-profit sector. This issue has been the subject of some comment in the media in connection with the Inquiry, and you may receive some submissions on the issue.

Competitive neutrality - the issue

It is on occasion suggested that not-for-profit organisations engaged in commercial operations have an unfair advantage over for-profit organisations competing in the same area. The advantage is said to arise from favourable taxation treatment enjoyed by some not-for-profit organisations, in particular the exemption from income tax, the former sales tax and FBT.

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Proponents of this argument suggest that principles of competitive neutrality should be applied to not-for-profit organisations, so that they should have any favourable taxation treatment removed for their commercial operations. In particular, that income from commercial operations should be subject to income tax.

While we do not wish to make a detailed submission at this time, we would like to make a few key points about this issue.

Findings of previous inquiries

The Inquiry into the Definition of Charities and Related Organisations, which reported in June 2001, rejected the suggestion that principles of competitive neutrality should be applied to the not-for-profit sector (at pages 229 - 231 of the Report).

The Inquiry had received a small number of submissions that argued not-for-profit organisations conducting commercial operations should be denied charitable status, and accordingly the Inquiry principally looked at the issue from this perspective. This suggestion was conclusively rejected by the Inquiry.

However, the Inquiry also referred to the findings of the Industry Commission's Report Charitable Organisations in Australia, 1995 and were supportive of the conclusion drawn by the Industry Commission in that report that an income tax exemption does not in fact provide a competitive advantage for a not-for-profit organisation's commercial operations.

The Inquiry also noted that, since the Industry Commission's Report, other tax concessions available to not-for-profit organisations have been considerably reduced. In particular:

- (a) the abolition of sales tax and its replacement with the GST (the GST exemption is only available for supplies not provided commercially); and
- (b) various limitations that have since been imposed on FBT concessions.

We do not propose to canvas the findings of the Inquiry or the Industry Commission in detail, but submit that any suggestion that taxation concessions provide an unfair advantage needs to be looked at carefully. As mentioned above, both the previous Inquiry and the Industry Commission dismissed such suggestions in the past.

Comments on commercial operations

The extent and manner in which not-for-profit organisations engage in commercial operations vary enormously, and there are perhaps as many variations on the theme as there are not-for-profit organisations.

By way of illustration, the Royal Flying Doctor Service provides emergency aeromedical evacuation services in rural and remote areas, and inter-hospital air ambulance services, across the country. Our operations are funded in part by:

- (a) Commonwealth funding for remote services;
- (b) State funding for air ambulance services; and
- (c) public fundraising.

Some of the State services are tendered for commercially, in competition with private operators. The remainder of our services are not provided in competition with private operators, and there is probably no private organisation that could provide the same coverage as the RFDS in the remote areas.

Our commercial operations are conducted on a purely commercial basis. We tender a commercial price and margin, as we believe we need to make a commercial return to properly price the risk of these operations. There is no cross-subsidisation between this and the other parts of the organisation, and the aircraft, pilots and other personnel and infrastructure required are sourced under separate arrangements from the rest of our activities.

In other words, we do not obtain a competitive advantage from our status as a not-for-profit organisation, when competing with other for-profit organisations for the business. This conclusion is consistent with one of the comments of the Industry Commission, which was that:

“It is the behaviour of the charities themselves, not their taxation treatment, which may represent ‘unfair competition’.”

The real difference between us and our for-profit competitors is that, instead of profits being returned to shareholders, they are put towards funding our other services, which are provided free of charge to the public. Accordingly, the effect of losing our tax exempt status on income derived from our commercial operations, would be to reduce our ability to provide emergency aeromedical services in rural and remote areas, which would be to no-one’s advantage.

Other comments

There are also a host of ways in which non-profit organisations are already subject to requirements that place them on a level playing field with the for-profit sector. For example, as mentioned above, the RFDS has extensive transparency and accountability obligations in our contracts with Commonwealth, State and Territory governments. These are designed to demonstrate that:

- (a) we are providing a value-for-money service, consistent with Commonwealth, State and Territory governance legislation and spending policies;
- (b) administration costs are minimised; and
- (c) our services are run as an efficient national operation, with economies of scale, providing a seamless service across the country.

This means the RFDS is subject to the same efficiency drivers as the for-profit sector, the key difference being that all our funding is put into delivering services, rather than into dividends for shareholders.

We are also required to demonstrate that we are meeting rigorous service standards and quality requirements, equivalent to for-profit operations. This is particularly so in the aviation business, where we are subject to extensive regulation of pilots, maintenance arrangements and flying operations. None of our aircraft operations are run by volunteers, but by professional pilots, mechanics and other staff, and there is no advantage to being a not-for-profit organisation in this regard. The same is obviously true of our medical staff.

Finally, as a large organisation the RFDS is subject to financial accountability and audit requirements under the Corporations Act, in addition to more general requirements under occupational health and safety, workplace, environmental and other legislation.

We trust this submission illustrates some of the complexities of the supposed advantage not-for-profit organisations enjoy in their commercial operations. It is not a straightforward issue, and not-for-profit organisations are increasingly reliant on commercial operations to supplement their fundraising, which raises the stakes for the not-for-profit sector if there were to be any imposition of competitive neutrality principles.

If this issue becomes a matter of focus for the Commission, we would welcome the opportunity to provide a more detailed submission.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Nigel Milan', written in a cursive style.

Nigel Milan
National CEO

29 August 2008